

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>V & L CORPORATION,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Robert Leland Johnson Address: 705 West 8th Avenue Denver, Colorado 80204 Phone Number: (303) 893-5062</p>	<p>Docket Number: 39537</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 14, 2003, Debra A. Baumbach and Karen E. Hart presiding. Petitioner was represented by Robert Leland Johnson, Shareholder. Respondent was represented by Charles T. Solomon, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**705 West 8th Avenue
(Denver County Schedule No. 05036-12-042-000)**

Petitioner is protesting the 2001 actual value of the subject property, a residential/commercial mixed-use property consisting of a 1,743 square foot, two-story house with a 518 square foot, one-story commercial office addition, located in Denver, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property is over 100 years old, is badly deteriorated, and is located in a gang-activity neighborhood. Respondent has not properly considered these issues; the subject property is overvalued.

Respondent:

Respondent contends that the subject property is correctly valued using the proper approaches to value. The condition and location of the subject have been considered in the valuation.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Robert Leland Johnson, Esquire and shareholder in V & L Corporation, presented an indicated value of \$100,000.00, based on the market approach, with \$95,000.00 allocated to the residential portion of the subject and \$5,000.00 allocated to the commercial portion of the subject.

2. Petitioner's witness presented a comparable sale property that was subsequently remodeled and resold as two parcels. The original sales price was \$159,600.00 and the two resold properties had sales prices of \$112,500.00 and \$173,500.00. No adjustments were made to the sales prices.

3. Mr. Johnson testified that the neighborhood is a rough area and there have been several burglaries of the subject property. There are gangs in the area and there is graffiti. The house is occupied but there are still burglaries in the law offices. They have rented the office portion to several attorneys but they cannot pay the rent. Clients will not meet there and secretaries will not go there to work. The subject has been available for rent for a long period of time but there have been no interested potential tenants.

4. Mr. Johnson testified that the building is deteriorated. The exterior bricks need tuck-pointed. The wood floors are worn, the doors are scratched, and the plaster is falling down and needs repaired. The law office has a flat roof with a tar cover. The roof leaks and the timbers are rotten; they cannot be fixed without completely redoing the roof. There is functional obsolescence in the office area; there is a half-bath but there is no hot water heater. It is a temptation to board up the property. He believes it would cost \$100,000.00 to rehabilitate the property.

5. Petitioner is requesting a 2001 actual value of \$100,000.00 for the subject property.

6. Respondent's witness, Mr. Edward R. Moore, a Certified Residential Appraiser and a senior property appraiser with the Denver County Assessor's Office, presented an indicated value of \$150,000.00 based on the market approach, for the residential portion of the subject property.

7. Respondent's witness presented three comparable sales ranging in sales price from \$173,500.00 to \$225,000.00 and in size from 1,648 to 1,937 square feet. After adjustments were

made, the sales ranged from \$147,300.00 to \$156,900.00.

8. Mr. Moore testified that all of the comparable sales are located within 3 blocks of the subject and suffer the same neighborhood problems. The sales were adjusted for time and differences in physical characteristics. He requested permission to conduct an interior inspection of the subject improvements but was refused permission by Mr. Johnson.

9. Mr. Moore testified that the subject consists of a residence in the rear and an office located in the front of the building. He only valued the residential portion of the subject. Mr. Berger from the assessor's office valued the commercial office portion.

10. Respondent's witness, Mr. Douglas Berger, an appraiser with the Denver County assessor's office, testified that he prepared a cursory analysis for the office portion of the subject property and presented an indicated value of \$32,100.00, based on the income approach, supported by the market approach.

11. Mr. Berger testified that he did not use the cost approach. It is not reliable for an older property such as the subject.

12. Mr. Berger testified that the subject is a commercial/residential mixed-use property, which makes finding comparable properties that have both components difficult. He agreed that the subject is located in a bad neighborhood, but that is why he used data from the same neighborhood as the subject - along the Santa Fe corridor.

13. Respondent's witness presented four comparable office sales ranging in sales price from \$54.84 to \$75.17 per square foot and in size from 1,404 to 1,995 square feet. After adjustments were made, the sales ranged from \$59.10 to \$87.95 per square foot.

14. Mr. Berger noted that the subject property's assigned value is \$61.97 per square foot, located well within the comparable sales price range.

15. Respondent's witness used the income approach to derive a value of \$32,100.00 for the commercial office portion of the subject property.

16. Mr. Berger presented four comparable rental properties ranging in rental income from \$8.99 to \$12.71 per square foot. He calculated an income approach for the subject property using \$10.00 per square foot rental rate, a 5% vacancy rate, a 25% expense ratio, and an 11.50% capitalization rate. He correlated to the income approach, as most commercial properties are bought and sold based on their income producing abilities.

17. Mr. Berger testified that he would be willing to look at a cost to cure for adjustments to the subject property due to its condition, but he cannot make the adjustments based on photographs; he needs to conduct a physical inspection.

18. Upon questioning by the Board, Mr. Berger testified that he believed the highest and best use for the subject could be a use other than as a law office, there are other commercial activities in the area, including retail. There is value to a purchaser for the commercial area. He

looks at the entire neighborhood and looks at the overall vacancy rate for offices in the area. There is not a lot of vacant space in the neighborhood, nor is there a lot of office space or vacancy. The vacancy rate he used came from published sources as well as the Denver assessor's questionnaires.

19. Respondent assigned a total actual value of \$159,800.00 to the subject property for tax year 2001, with \$127,700.00 assigned to the residential portion, and \$32,100.00 assigned to the commercial portion.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the tax year 2001 valuation of the subject property was correct.

2. Regarding the residential portion of the subject property, Petitioner presented some sales data but no adjustments were made for physical characteristic differences and the Board lacked sufficient information to determine those adjustments. Conversely, Respondent's witness presented a well-organized and well-supported appraisal report. The comparable sales came from the same neighborhood as the subject, and the Board was convinced that the comparable sale prices would reflect the negative characteristics of the neighborhood. The Board notes that additionally, the Respondent's witness made an adequate adjustment for the fact that the property is mixed-use.

3. Regarding the commercial portion of the subject property, Petitioner did not present sufficient information to support a change in the assigned value. Respondent's witness presented adequate supporting documentation for the assigned value, including sales and rental rates from the subject's neighborhood. The Board recognizes that the subject property appears to be in poor condition; however, Respondent was not allowed access to the interior and valued the property using the best information available to them. The Board recommends that Petitioner make arrangements for an interior inspection with the Respondent, in order to properly determine if an additional condition adjustment is necessary.

4. After careful consideration of all the testimony and evidence presented, the Board affirms Respondent's assigned value of \$159,800.00.

ORDER:

The petition is denied.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 26th day of February, 2003.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Karen E. Hart

Karen E. Hart

This decision was put on the record

FEB 25 2003

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Penny S. Lowenthal

Penny S. Lowenthal

